

October 1, 1997

Parties to the Proceeding

Re: Report and Recommendation of the Hearing Officer for the Universal Service Generic Contested Case, Docket Number 97-00888.

Dear Parties:

Attached to this letter is the Report and Recommendation of the Hearing Officer for the Universal Service Generic Contested Case, Docket Number 97-00888. This Report details the activities and discussions which were held to facilitate the initiation of Hearings on this Proceeding. I will present this Report to the Authority on October 7, 1997, at the regularly scheduled Directors Conference.

Please note that a revised procedural schedule is included in this Report. This schedule accommodates the Parties' request that Cost Issues be addressed in Phase 1.

Should you have any objections, modifications or comments to the Report, I am asking that you notify me in writing by Noon, October 6, 1997. I will be happy to have your objections, modifications or comments to the Report noted for the Record.

Sincerely,


Sara Kyle, Director
as Hearing Officer

Enclosure: Report and Recommendation of Hearing Officer

cc: Chairman H. Lynn Greer

Director Melvin J. Malone

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

**IN RE: UNIVERSAL SERVICE
GENERIC CONTESTED CASE**

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) **DOCKET NO. 97-00888**
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**REPORT AND RECOMMENDATIONS OF HEARING OFFICER FOR THE PRE-
HEARINGS HELD JULY 28, 1997 WITH STATUS CONFERENCE SUPPLEMENT OF
AUGUST 5, 1997, AND THE PRE-HEARING CONFERENCE HELD SEPTEMBER 23,
1997.**

Background

This matter is before the Tennessee Regulatory Authority ("Authority") on its own motion, on the petition of AT&T Communications of the South Central States, Inc., for the termination of Docket No.95-02499, and the commencement of a new generic contested case proceeding and on the petition of Citizens Telecommunications Company of Tennessee, L.L.C., and Citizens Telecommunications Company of the Volunteer State, L.L.C., for establishment of alternative Universal Service support mechanisms.

This matter was considered at a regularly scheduled Authority Conference held on May 13, 1997, at which time the Directors voted unanimously to: convene a new generic case proceeding to consider Universal Service, to set a pre-hearing conference, and to appoint Director Sara Kyle as hearing officer.

Subsequent to public notice, the first of two contemplated Pre-Hearing Conferences and one technical forum for this docket was held Monday July 28, 1997, at 1:00 P.M. This Pre-Hearing Conference was held to:

1. Consider petitions for intervention.
2. Determine a statement of issues, and simplifying those issues, if appropriate.
3. Establish a discovery schedule and hearing date.
4. Recommend Conclusions of Law.

This Pre-Hearing Conference was conducted, pursuant to *T.C.A. 4-5-306*, in the Hearing Room at the Authority, 460 James Robertson Parkway, Nashville, Tennessee.

Appearances of Counsel on Behalf of Potential Participants

Appearances were entered by the following at the Pre-Hearing Conference on July 28 1997:

Mr. Phillip Carver, Esq., for BellSouth Telecommunications, Inc., 675 West Peachtree Street, Atlanta, GA 30375.

Mr. Richard Tettlebaum, Esq., for Citizens Communications Co., Suite 500, 1400 16th Street, NW, Washington, D.C. 20036.

Mr. James Wright, Esq., for United Telephone-Southeast and Sprint Communications Co., 14111 Capital Boulevard, Wake Forest, NC 27587.

Mr. Joe Reeves, Esq., for WorldCom and LCI, Suite 320, 211 Seventh Avenue., N., Nashville TN 37219.

Mr. John Hayworth, Esq., for the Coalition of Small LECs and Cooperatives, 2700 First American Center, Nashville, TN 37238.

Mr. Guilford Thornton, Esq., for BellSouth Cellular, 424 Church Street, Suite 2800, Nashville, TN 37219.

Ms. Dana Shaffer, Esq., for NEXTLINK Tennessee, 105 Molloy Street, Suite 300, Nashville, TN 37215.

Mr. Mickey Henry, Esq., for MCI, 780 Johnson Ferry Road, Atlanta, GA 30342; and
Mr. Jon Hastings, Esq., Suite 1600, 414 Union Street, Nashville, TN 37219.

Mr. Dan Elrod, Esq., and **Mr. Ken Bryant, Esq.**, for GTE Mobilnet, Nashville City Center, 25th Floor, 511 Union Street, Suite 2100, Nashville, TN 37219.

Ms. D. Billye Sanders, Esq., for TCG MidSouth, 511 Union Street, Suite 2100, Nashville, TN 37219.

Mr. Val Sanford, Esq., for AT&T., P.O. Box 198888, Nashville, TN 37219; and
Mr. Jim Lamoureux, Esq., 1200 Peachtree Street, NE, Atlanta, GA 30309.

Mr. Tony Thompson, Esq., for Time Warner of the Mid-South, 511 Union Street, Suite 2400, Nashville, TN 37219.

Mr. Henry Walker, Esq., for ACSI, P.O. Box 198062, Nashville, TN 37219.

Others attending:

Dr. Peggy Smith, for Tennessee Ed-Link, 801 Second Avenue, North, Nashville, TN 37201

Mr. Ozzle Allen, for Tennessee Co-ops, 2755 Short Mountain Road, McMinnville, TN 37110.

Ms. Ellen Bryson, for Bledsoe Telephone Cooperative, 5030 Hodgkins Place, Lilburn, GA 30047.

Mr. Archie Hickerson, for the Office of the Attorney General, Consumer Advocate Division.

Mr. Jack McFadden, Department of Telecommunications, Tennessee Department of Finance and Administration, 598 James Robertson Parkway, Nashville, TN 37243.

Mr. Eric Witkoski, Esq., Senior Counsel, Authority, 460 James Robertson Parkway, Nashville, TN 37243; and **Dr. Austin Lyons**, Chief of Telecommunications, Authority.

The second of the Pre-Hearing Conferences was held on September 23, 1997, to further refine and categorize the issues, and to determine if any issues could be the subject of a briefing process rather than requiring them to be subjects at issue at the Hearing on the merits.

Appearances of Counsel on Behalf of Admitted Parties, September 23, 1997 Conference

Appearances were entered by the following at the Pre-Hearing Conference:

Mr. Guy M. Hicks, Esq., for BellSouth Telecommunications, 333 Commerce Street, Suite 2101, Nashville, TN 37201.

Mr. Val Sanford, Esq., for AT&T, P.O. Box 198888, Nashville, TN 37219; and

Ms. D. Billye Sanders, Esq., for TCG MidSouth, 511 Union Street, Suite 2100, Nashville, TN 37219.

Mr. Henry Walker, Esq., for ACSI and NEXTLINK, Tennessee, P.O. Box 198062, Nashville, TN 37219.

Mr. T.G. Pappas, Esq., for Small LECs and Coalition of Small LECs, Bass, Berry and Sims, P.L.C., 2700 First American Center, Nashville, TN 37238-2700.

Mr. Guilford Thornton, Esq., for BellSouth Cellular, 424 Church Street, Suite 2800, Nashville, TN 37219.

Mr. Jon Hastings, Esq., for MCI, Suite 1600, 414 Union Street, Nashville, TN 37219.

Mr. Richard Tettlebaum, Esq., for Citizens Communications Co., Suite 500, 1400 16th Street, NW, Washington, D.C. 20036.

Mr. James Wright, Esq., for United Telephone-Southeast and Sprint Communications Co., 14111 Capital Boulevard, Wake Forest, NC 27587.

Mr. Vincent L. Williams, Esq., for the Office of the Attorney General, Consumer Advocate Division.

Mr. Dan Elrod, Esq., for GTE Mobilnet, Nashville City Center, 25th Floor, 511 Union Street, Suite 2100, Nashville, TN 37219.

Mr. William C. Carriger, Esq., for the Tennessee Municipal Telecommunications Group, 400 Krystal Building, One Union Square, Chattanooga, TN 37402.

Others attending:

Mr. Dennis P. McNamee, Esq., General Counsel, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 37243; and **Dr. Austin Lyons**, Chief of Telecommunications, Authority.

Notifications of Participation

At the initial Pre-Hearing Conference the following potential participants submitted comments and expressed an intent to fully participate with all corresponding rights of an intervenor: AT&T Communications of the South Central States, Inc., BellSouth Cellular Corp., BellSouth Telecommunications, Inc., Ben Lomand Rural Telephone Cooperative, Citizens Local Exchange Carriers, Coalition of Small LECs and Cooperatives, Office of the Attorney General Consumer Advocate Division, DeKalb Telephone Cooperative, Inc., Electric Power Board of Chattanooga, GTE Mobilnet, MCI Telecommunications Corp., NEXTLINK Tennessee, North Central Telephone Cooperative, Time Warner Communications of the Mid-South, Twin Lakes Telephone Co., United Telephone-Southeast and Sprint Communications L.P., West Kentucky Rural Telephone Cooperative Corp., and Yorkville Telephone Cooperative. After the first Pre-Hearing Conference the Tennessee Municipal Telecommunications Group, and TCG MidSouth, Inc., also noticed their intent to fully participate.

The following potential participants plan only to monitor the proceeding: Deltacom, Inc., Phoenix Network, Inc., Standard Communications Co., 360 Communications Company.

WorldCom, Inc., AVR L.P. d/b/a Hyperion of TN L.P., LCI International Telecom Corp., TN Department of Finance and Administration, TN Department of Education and Charlene Taylor (Chaz Taylor, Inc.)

The following potential participants anticipate no involvement: D.D.D. Calling, Inc. and RRV Enterprises, Inc.,

Interventions

At the initial Pre-Hearing Conference the Hearing Officer addressed the subject of intervention. The Hearing Officer stated that the Hearing Officer would rule on interventions at the second Pre-Hearing Conference called for final clarification of the issues. This additional time was intended to give the potential participants the opportunity to review the specific issues to be decided in the case and to then decide their final participation. The Hearing Officer stated that if a potential participant sent in a letter to notify the Authority of their intent to participate or monitor the case, that this letter was sufficient for inclusion on the service list. Further, the Hearing Officer stated that she wanted to make sure that all potential participants affected by the decisions in this docket knew they have the right and the opportunity to participate if they so choose.

At the second Pre-Hearing Conference on September 23, 1997, the Hearing Officer admitted the following Participants as Parties with full rights to participate as their interests appear: AT&T Communications of the South Central States, Inc., BellSouth Cellular Corp., BellSouth Telecommunications, Inc., Ben Lomand Rural Telephone Cooperative, Citizens Local Exchange Carriers, Coalition of Small LECs and Cooperatives, Office of the Attorney General Consumer Advocate Division, DeKalb Telephone Cooperative, Inc., Electric Power Board of Chattanooga, GTE Mobilnet, MCI Telecommunications Corp., NEXTLINK Tennessee, North Central Telephone Cooperative, Time Warner Communications of the Mid-South, Twin Lakes Telephone Co., United Telephone-Southeast and Sprint Communications L.P., West Kentucky Rural Telephone Cooperative Corp., Yorkville Telephone Cooperative, the Tennessee Municipal Telecommunications Group, and TCG MidSouth, Inc. The Hearing Officer **recommends** their status as Parties to the Authority. An initial Order reflecting this status has been issued.

Manner of Notice

During the initial Pre-Hearing Conference, the Hearing Officer requested Eric Witkoski the Senior Counsel for the Authority to explain the notice procedures used to start this proceeding. Mr. Witkoski stated that approximately 515 notices were sent to: customer-owned coin operated telephone service providers, including resellers, competing local providers, long distance providers, and the Authority subscription list. In addition, a public service notice was served on all newspapers in Tennessee which included the notice of the contested case and a Hearing Officer request.

Development of the Universal Service Case Docket

In 1995, the Tennessee Legislature passed legislation to provide for competition in the telecommunications markets. Part of the legislation provides that, "Universal Service, consisting of residential basic local exchange telephone service at affordable rates and carrier-of-last-resort obligations must be maintained after the local telecommunications markets are opened to competition." *T.C.A. § 65-5-207*. The legislation directed the Authority to adopt policies, rules and issue orders, to require all telecommunication service providers to contribute to the support of Universal Service.

Additionally, in February, 1996, the United States Congress passed the *Telecommunications Act of 1996* ("Telco Act") to further competition and reduce regulation for American Telecommunications Consumers. As part of the Act, a provision was made for preservation of Universal Service under section 254. Such preservation of Universal Service would provide a funding mechanism to insure access to telecommunication services for low-income, rural, insular and high cost areas at a cost comparable to those in urban areas for similar services. Under *section 254 (b) (4) of the Telco Act*, all providers of telecommunication services shall be required to "...make an equitable and nondiscriminatory contribution to the preservation and advancement of Universal Service."

On May 13, 1997, the Authority voted to open Docket No. 97-00888, *In Re: Universal Service Generic Contested Case* (1997) and appointed Director Sara Kyle as Hearing Officer. This docket was opened by the Authority to develop the issues, make determinations and to

make findings of facts and conclusions of law in order to implement Universal Service funding mechanism as provided for by the *Telco Act* and Tennessee law.

The matter of discounts for schools and libraries came before the Authority on its own motion at a regularly scheduled conference held on July 1, 1997, pursuant to 47 U.S.C. 254(h) of the *Telecommunications Act of 1996 and Federal Communications Commission (FCC) Order 97-157*. The purpose of FCC Order 97-157 is to adopt the federal discount levels for intrastate telecommunications services, to permit schools and libraries in Tennessee to begin using the discounted services January 1, 1998, and to provide requisite State approval so that schools and libraries may begin applying for federal funding with the School and Libraries Corporation as soon as the applications are available.

In the Matter of Federal-State Joint Board on Universal Service, ("FCC Order") FCC Docket No. 96-45, issued May 8, 1997, the Federal Communications Commission, ("FCC") discussed the determination of forward-looking economic cost studies for calculating federal Universal Service support. In paragraph 248, the FCC Order states:

Therefore, as the basis for calculating federal universal support in their states, we will use forward-looking economic cost studies conducted by state commissions that choose to submit such cost studies to determine universal support. As discussed further below, we today adopt criteria appropriate for determining federal Universal Service support to guide the states as they conduct those studies. We ask the states to elect, by August 15, 1997, whether they will conduct their own forward-looking economic cost studies. States that elect to conduct such studies should file them with the Commission on or before February 6, 1998.

The Authority expects that several cost models will be evaluated and considered in the Universal Service docket. Through the Discovery and Hearing process, the Authority believes that the appropriateness of each of the models will be considered and that a composite model may be developed for purposes of calculating the federal support of Universal Service. At the August 5, 1997 Conference the Directors voted to inform the FCC that the Authority plans to develop a model to be submitted to the FCC by February 6, 1998. The Authority sent a copy of the order and a letter to the FCC on August 14, 1997 responding to FCC Order Docket No. 96-45. The Directors acknowledge that there may need to be some coordination with the FCC in regard to the model and expressed a willingness for such cooperation. Additionally, the Directors noted that at a later date, the Authority may elect to adopt the FCC model, but did not want to foreclose the option of having the Authority submit a Tennessee cost model by February 6, 1998. At its September 23, 1997, Conference, the Authority determined that it should join with the

National Association of Regulatory Utility Commissioners ("NARUC") in petitioning the FCC for an extension to submit the cost model for Tennessee and other states. The Authority also decided to file its own petition separately.

Preliminary Matters

At the initial Pre-Hearing Conference, the Hearing Officer began the discussion of preliminary matters with four threshold issues that needed to be addressed by the participants in briefs **directed** by the Hearing Officer to be filed no later than August 21, 1997. First, several potential participants suggested in their comments that the Access Charge Reform Docket No. 97-00889, be consolidated with the Universal Service Docket No. 97-00888. In addition, MCI also discussed in its filing what was described as a "Competition Trilogy." This trilogy addressed the Universal Service docket, the Access Charge Reform docket and the docket to establish Permanent Prices by BellSouth for unbundled network elements. The Hearing Officer stated that the Authority addressed the issue of consolidation when the Authority established the three separate dockets, with the direction to the hearing officers to coordinate the proceedings of the dockets. However, since the potential participants raised the issue, the Hearing Officer asked that the issue of consolidation of all three dockets be addressed in briefs. Upon consideration of the Parties position in their briefs the Hearing Officer **recommends** that the dockets remain separate.

Second, the Hearing Officer also **requested** that the potential participants comment on whether there should be a bifurcation of non-rural and rural companies for purposes of Universal Service. The Hearing Officer stated that the Authority's review of the FCC order and the schedule adopted by the FCC indicated a need to consider bifurcation. The Hearing Officer also **requested** the potential participants comments on this issue including a specific definition of rural and non-rural companies, and identification of rural and non-rural companies. Following a review of the comments the Hearing Officer recommends that rural companies continue to fully participate during the entire proceeding as their interests may appear, but **recommends** to the Authority that rural companies and non-rural companies be bifurcated for purposes of Universal Service cost methodology and pricing issues. Universal Service cost issues for rural companies will be considered at a later date to coincide with similar proceedings at the FCC.

Third, some of the potential participants requested an extension of time. The Hearing Officer, stated that the Authority and the potential participants to the proceeding are not going to rush into formal proceedings until all of the potential participants are fully prepared. The Hearing Officer stated that the proposed schedule allows sufficient opportunity for potential participants to file whatever additional comments they deem appropriate. The Hearing Officer urged all of the participants not to attempt to delay this docket from moving forward on strictly technical procedures but rather work together to move this case as efficiently as possible. The Hearing Officer determined that it was not necessary to make a ruling on this issue.

Finally, the Authority received an emergency request for relief from Citizens Telecommunications Company of Tennessee, LLC ("Citizens"), under the Universal Service Docket. The Hearing Officer believes that the more appropriate forum to consider this request is before the Authority in a separate proceeding, and therefore, the Hearing Officer **recommends** that Citizens' request be placed on a subsequent Authority Conference agenda and that a separate proceeding be established to proceed with the request from Citizens.

After reviewing the initial comments received in response to the Hearing Officer's Notice of Proposed Schedule and Request for Comments, and the legal and policy issues presented by the participants, the Hearing Officer **recommends** that the docket be separated into two phases. The Hearing Officer believes this approach will allow the Authority to focus more directly on the issues to be decided in each phase. As a result, the Hearing Officer **recommends** that one Phase be dedicated to the consideration of policy and procedure issues which do not involve cost or pricing issues. The other Phase would be dedicated strictly to the compilation of cost methodology and the pricing of Universal Service.

Issues and Proposed Schedule Directed to be Commented Upon By the Participants

At the initial Pre-Hearing Conference, the Hearing Officer presented the participants with a list of issues distilled from the Hearing Officers Notice and Request for Comments which began the official proceedings in this Docket and a proposed schedule. The Roman Numeral headings used in this Request were duplicated from the Report and Order issued *In the Matter of Federal-State Joint Board on Universal Service*, Docket No.96-45. Many of the questions and concerns which were listed in the Request come from the comments and suggestions made

by the participants in their filings made July 9, 1997. These Issues, discussed at the Pre-Hearing Conference, were the main subjects that the Hearing Officer **directed** the participants to brief by August 21, 1997. The issues and schedule presented and discussed at the initial Pre-Hearing Conference are a part of this **Report and Recommendation** at *Attachment A*.

Prior to the second Pre-Hearing Conference on September 23, 1997, BellSouth and AT&T distributed a joint letter to certain parties to the case outlining and proposing a list of negotiated issues to be decided by the Authority in this proceeding. At the second Pre-Hearing Conference on September 23, 1997, the Hearing Officer attached a copy of the letter with the proposed list of negotiated issues to the agenda for the benefit of, and disclosure to, all of the parties and monitoring participants. This list of issues in the BellSouth and AT&T letter (see *Attachment B*) appear comparable in their language and subject matter to the list of issues consolidated from the comments and suggestions made by the participants in their filings of July 9, 1997. Six additional issues were offered by these two Parties. These are to be found in issues: 2(b)i, 2(b)ii, 3(a)iii, 4(a)v, 5(a)i, and 5(a)ii. The Parties at the Pre-Hearing Conference were requested to review and acknowledge that they either agreed or disagreed with the issues contained in the letter presented by BellSouth and AT&T, or needed more time to consider the issues presented by BellSouth and AT&T. The Parties expressed no objections to the BellSouth and AT&T list, but reserved the right to file subsequent comments after further review. Based upon the discussion with the Parties and the receipt of no additional comments filed by the Parties on these issues, the Hearing Officer **recommends** that the issues in *Attachment B* should be the issues to be decided in this proceeding. If the Authority agrees to accept the issues as proposed by BellSouth and AT&T, and agreed to by the other Parties, then the Hearing Officer will direct BellSouth and AT&T to organize the issues in a format for a decision by the Authority.

The Parties have also proposed that the Phase dealing with cost issues precede the Phase that considers Non-Specific Cost Issues. This proposal was made so the Authority could meet its February 6, 1998, deadline for submission to the FCC of the Tennessee specific cost model. Cost issues would be considered first, between the date of the acceptance of this **Report and Recommendation** and January 9, 1997, approximately. Non-Cost Issues would then be

considered after February 6, 1997. The Hearing Officer wishes to **present** to the Authority for discussion and deliberation that the Parties have agreed that the Cost Phase of the Universal Service docket shall occur first.

Preliminary/Threshold Issues

BellSouth presented two additional issues in its negotiations with AT&T for decision by the Authority. These issues are:

1. For the TRA to direct all ILECs to file requests for certification with the Authority as eligible telecommunications providers in order to receive USF funding from NECA on January 1, 1998. The FCC requires all such carriers to obtain state certification and submit the certification to NECA to receive the funding.
2. For the TRA to approve a monthly reduction of \$1.75 to basic local exchange rates for Lifeline customers in order for Tennessee Lifeline customers to benefit from the increase in Federal Lifeline Support.

After a review of these issues, the Hearing Officer will present these issues for consideration by the Authority at the October 7, 1997, Directors Conference. The BellSouth and AT&T issues list further identified five Preliminary Issues for consideration prior to their proposed Phase I. These issues are identified in their joint letter as 1(a)i, 1(a)ii, 2(b)iii, 4(a)vi and 4 (a)vii. In addition, their proposal identified Issues of Law for consideration for each proposed Phase, i.e. Cost and Non-Cost Phases. The Issues of Law were identified in the BellSouth and AT&T proposal using the designation "must" indicating a question of law.

The Hearing Officer will be requesting that all Parties brief the Preliminary Issues and Issues of Law for the initial Phase that has been agreed upon by the Parties. The Hearing Officer will issue a request to the Parties detailing the specific issues to be briefed upon approval of this report.

August 5, 1997, Supplemental Status Conference

This Status Conference was moderated by Senior Counsel to the Authority, Eric Witkoski, and was held on August 5, 1997, at 1:00 P.M., in the Hearing Room at the Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, Tennessee. This Status Conference was held for the following purposes:

1. Aid in Determining a statement of issues, and simplifying those issues, if appropriate.

2. Clarify the discovery schedule and hearing dates, if necessary.

Appearances of Counsel on Behalf of Potential Participants

Appearances were entered by the following at the Status Conference on August 5, 1997:

Mr. Guy M. Hicks, Esq., for BellSouth Telecommunications, 333 Commerce Street, Suite 2101, Nashville, TN 37201.

Mr. Val Sanford, Esq., for AT&T, P.O. Box 198888, Nashville, TN 37219; and
Mr. Jim Lamoureux, Esq., 1200 Peachtree Street, NE, Atlanta, GA 30309.

Ms. D. Billye Sanders, Esq., for TCG MidSouth, 511 Union Street, Suite 2100, Nashville, TN 37219.

Mr. Henry Walker, Esq., for ACSI, P.O. Box 198062, Nashville, TN 37219.

Ms. April A. Ingram, Esq., for MCI, 414 Union Street, Suite 1600, Nashville, TN 37219.

Mr. T.G. Pappas, Esq., for Small LECs and Coalition of Small LECs, Bass, Berry and Sims, P.L.C., 2700 First American Center, Nashville, TN 37238-2700.

Others attending:

Ms. Laura Sykora, for United Telephone-Southeast and Sprint Communications, L.P., 14111 Capital Boulevard, Wake Forest, NC 27587.

Mr. Paul Greene, Ms. Darlene Standley, Mr. Roger Knight, Mr. Mike Gaines, Mr. David Foster, and Dr. Chris Klein of the Tennessee Regulatory Authority Staff.

Discussion

The moderator immediately opened the discussion to the floor to determine the state of the issues in the minds of the participants. The initial discussion indicated that there was a question of focus. The comment was made that the way many of the issues in the consolidated list, distributed at the Pre-Hearing Conference were written, it was impossible to determine if the focus of the case was to develop a state system or assist in the federal system. The participants believe that at the federal level the Federal Communications Commission ("FCC") will preempt some of the workings of the states, but the extent to which the preemption's would apply are not being explored under the current issues. In particular, any preemption would tend to revolve

around what carriers would be required to contribute to the Universal Service fund. Preemption's would principally run to the cellular providers and whether or not they are bound by what the Authority does in this case by the *Telecommunications Act of 1996 ("Telco Act")*.

The reasons for opening the docket and pursuing the actions in the Universal Service dockets were discussed. The moderator traced the history of Universal Service in Tennessee to 1995, when it was contemplated that the actions in which the Authority is currently engaged would begin. Several of the participants believed that the Tennessee Public Service Commission ("TPSC") had decided that the existing forms of support for service were adequate in 1995, and had not decided to pursue Universal Service further. It was stated that cost studies had been ordered on an on-going basis by the TPSC to be filed June 30, 1996, but when the TPSC went out of existence the program's progress was slowed considerably. Some of the participants believed that the TPSC, being unable to meet its statutory deadline for implementation of Universal Service by January 1, 1996, rendered the issue of Universal Service on the State level moot. The result is that any Universal Service with which the Authority deals now is federal in nature. This point was suggested as an additional issue for the Hearing portion of the docket.

The next legal issue discussed was jurisdictional in nature. In particular, who will be bound by this case proceeding once it ends? Cellular carriers and co-ops were specifically mentioned.

A linking of the cost models for all three cases was discussed. It was pointed out by the counsel for BellSouth that a proposal to link the unbundled network element cost model proceeding with the Universal Service or Access Charge Reform dockets had been expressly rejected by the Authority. It was expressed that any similarity in the other case models or other case proceedings could produce collateral estoppel in the Cost Issues Phase of this case. The difference, it was proposed, was the actual application against the facts in the BellSouth case for permanent pricing and unbundled elements versus the theoretical applications in this docket. While the models may be similar, the way they are applied may be entirely different, reducing or eliminating issue preclusion.

Participants also suggested a tighter organizational structure for the issues. Rather than follow the Universal Service docket at the federal level, that we should depart from the

redundancy of that docket and combine issues into units of single subjects. The Technical Forum adjourned at 2:05 P.M.

Proposed Procedural Schedule

The initial schedule proposed in this proceeding contemplated deciding the Non-Cost Issues followed by the Cost Issues. With the decision by the Authority to comply with the FCC request to file cost studies for Universal Service by February 6, 1998, the Parties recommended that the Cost Issues be decided first followed by the Non-Cost Issues. A schedule to accomplish the recommendation of the parties was not available for their consideration at the September 23, 1997 Conference. A schedule to accomplish the Parties recommendation and to allow the Authority to meet the February 6, 1998 deadline is included in this report. The Hearing Officer **presents** this schedule for discussion and consideration by the directors.

PHASE 1 - COST ISSUES

Pre-hearing Conference. Distribute Issues for Comments and Proposed Schedule	July 28, 1997
Potential participants file comments regarding the choice of Cost Model	August 1, 1997
Status conference with Staff and Participants. Questions regarding Request for Comments	August 5, 1997
Authority Conference. Directors vote on what cost model to use for Universal Service and inform the FCC by August 15, 1997	August 5, 1997
Comments due on Request for Comments	August 21, 1997
Reply comments due in response to comments filed	September 2, 1997
Second Pre-Hearing	September 23, 1997
Stipulated Agreements between the Parties on Issues (new topic)	September 30, 1997
Presentation Of Hearing Officer's Report to the Authority	October 7, 1997

Briefs due on Preliminary Issues and Issues of Law for Phase I	October 24, 1997
Decision on All Preliminary Issues and Issues of Law	November 4, 1997
Telcos provide Universal Service Cost and Revenue Data	November 17, 1997
Initial Discovery request due	November 21, 1997
Responses to Discovery request due	December 1, 1997
Direct testimony due	December 9, 1997
Rebuttal testimony due	December 29, 1997
Hearings	January 5-9, 1998
Post Hearing Briefs (optional)	January 20, 1998
Authority Decision on Phase I issues	January 27, 1998
Compliant Cost Studies filed by Parties with TRA	January 30, 1998

PHASE 2- NON SPECIFIC COST ISSUES

Pre-Hearing Status Conference for Proposed Phase 2 Schedule	February 10, 1998
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The Pre-Hearing Conference was adjourned subject to recall of the Hearing Officer for further procedural or discovery matters needing resolution.

Respectfully submitted,

DIRECTOR SARA KYLE AS
HEARING OFFICER

ATTEST:

EXECUTIVE SECRETARY

Attachment A

Issues presented and discussed at the July 28, 1997, Pre-Hearing Conference were:

Definition of Universal Service:

Under Tennessee law, Universal Service is defined in Tenn. Code Ann. § 65-5-207 (a). The Telco Act section 254 (c) defines Universal Service.

Under section 254 (f), the Act provides a State may adopt regulations "not inconsistent with the Commission's rules to preserve and advance Universal Service."

A. ISSUE: Is Tennessee's definition under Tenn. Code Ann. § 65-5-207 (a), consistent with the Federal Act's definition of Universal Service? If not, is Tennessee's definition preempted by the Federal Act?

B. ISSUE: Should the Authority recommend to the Tennessee legislature that they adopt the Federal definition of Universal Service?

C. ISSUE: Whether the Federal or Tennessee definition of Universal Service or some combination of both is followed, what services should be provided?

D. ISSUE: Should the Authority provide for additional support under a Tennessee mechanism, for services in addition to those set forth by the FCC?

E. ISSUE: Should the Authority adopt specific procedures for passing upon "exceptional circumstances" as set forth in paragraphs 89-92 of the FCC order?

F. ISSUE: Are there any telephone companies that will not be able to offer all the elements of Universal Service by the end of 1998? (e.g. toll blocking) If this is a problem, what steps are needed to remedy the situation?

V. Affordability:

A. Define and consider affordability of rates:

Section 254 (b)(1) of the Telco Act provides that, "quality services should be available at just, reasonable, and affordable rates." The definition of affordability contains both an absolute component "to have enough or the means for", which takes into account an individual's means to subscribe to Universal Service; and a relative component "to bear the cost of without serious detriment", which takes into account whether consumers are spending a disproportionate amount of their income on telephone service.

1. ISSUE: Provided that existing rates were set to the "just and reasonable" standard pursuant to Tenn. Code Ann. § 65-5-201, is there an assumption that current rates are set at an affordable level?
2. ISSUE: Does the existence of programs to support low income consumers, further the argument that current rates meet the affordability requirement in Tennessee?
3. ISSUE: Are there other factors that should be considered?

B. ISSUE: The FCC did not choose to adopt a nationwide rate for Universal Service. Should Tennessee adopt a statewide universal rate?

C. ISSUE: Define explicit subsidy.

PROPOSAL FOR COMMENT: Explicit subsidy is a support that is calculable and identifiable vs. implicit subsidy which generally means there is a support but the exact amount of that support has not been determined. Is there a more appropriate definition?

D. ISSUE: How may complaints filed on the affordability of intrastate rates be addressed?

PROPOSAL REQUESTED: The FCC identifies several components to be considered when determining affordability of rates, such as subscribership levels, size of local calling area, consumer income level, cost of living, etc. what procedures would be least burdensome on carriers and the Authority, and would provide the information necessary to determine if rates are affordable on an ongoing basis?

VI. Carriers Eligible for Universal Service Support

A. ISSUE: Define carrier of last resort.

PROPOSAL FOR COMMENT: The Staff defines carrier of last resort as the carrier ultimately responsible for the provision of telephone service including the provision of Universal Service core elements in a given area. Is there a better definition?

B. ISSUE: Determine if a carrier of last resort designation is necessary.

PROPOSAL FOR COMMENT: The designation of a carrier of last resort for a given region is necessary to ensure that all Tennessee consumers are provided with telecommunication services. If no carrier of last resort is designated there is the potential danger of some consumers not being served. At what point, if any, would carrier of last resort designation become unnecessary?

C. ISSUE: What mechanism should be put in place if a carrier proposes to withdraw service?

PROPOSAL FOR COMMENT: It appears that mechanisms need to be developed to address the possibility that a carrier of last resort may desire to withdraw service in one or all regions which it serves. Allowing a carrier of last resort to withdraw needs to be based on specific and predictable criteria. At a minimum, the Staff proposes that no carrier of last resort should be allowed to withdraw service prior to the designation of another carrier to serve as the carrier of last resort. Do you have any suggestions on the criteria that needs to be established in order to allow a carrier to withdraw as carrier of last resort?

D. ISSUE: What criteria should be used to designate eligible telecommunication carriers?

PROPOSAL FOR COMMENT: The FCC concluded that the plain language of section 214(e) precludes adoption of additional eligibility criteria beyond those enumerated in that section. Therefore, the FCC adopted without expansion the statutory criteria set out in section 214(e), as the rules governing eligibility. The Staff proposes to use the eligibility criteria of section 214(e) to designate eligible telecommunication carriers. Do you agree with this proposal?

E. ISSUE: Should Universal Service support be provided to cellular carriers and resellers.

PROPOSAL FOR COMMENT: The FCC adopted without expansion the statutory criteria set out in section 214(e) as the rules governing eligibility. The FCC interpreted the term "facilities" in section 214(e)(1) to mean any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1). The FCC further concluded that a carrier that offers any of the services designated for Universal Service support, either in whole or in part, over facilities obtained as unbundled network elements pursuant to section 251(c)(3) satisfies the "own facilities" requirement of section 214(e). The staff recommends that the Authority use the criteria set forth by the FCC and to the extent that cellular carriers or resellers meet these criteria, they should be provided Universal Service support. Do you agree with this recommendation?

F. ISSUE: What is the appropriate role of cooperatives in this proceeding?

PROPOSAL FOR COMMENT: Section 254(f) states, "Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of Universal Service in that State." It is clear that cooperatives will contribute to and receive support from the Universal Service support fund. Because the cooperatives will be included in the results of this proceeding, the Staff believes that cooperatives should be encouraged to participate fully in the Universal Service docket. Do you agree?

VII. High Cost Support

A. ISSUE: Should Tennessee perform its own forward looking cost study to determine intrastate Universal Service support? If not, should it work in conjunction with the FCC to determine methodology and inputs and adopt the FCC cost and revenue benchmark calculations?

PROPOSAL FOR COMMENT: As stated above, in "Preliminary Matters" the Directors of the Authority will consider the issue of whether Tennessee should develop its own cost study at the Conference scheduled for August 5, 1997.

B. ISSUE: If it is determined that Tennessee will do a cost study what would be the core elements? (i.e. residential, business, usage).

1. What area should be included in each cost study?
2. The FCC requires diverging to the wire center serving area at least, and to smaller areas if feasible. Is this appropriate?

PROPOSAL FOR COMMENT: FCC Order 97-157 sections 54.101 and 54.207 set forth the services designated for support and service areas. Is it appropriate for Tennessee to adopt these services? If not, what services do you believe should receive Universal Service support. Also please comment on how service areas may be defined in Tennessee.

C. ISSUE: What elements should be included in the revenue benchmark?

PROPOSAL FOR COMMENT: The Staff expects to use the elements that will be included in the national benchmark, (local, discretionary, interstate and intrastate access

services, and other revenues used in the cost study). Do you feel these are the appropriate elements to be included in the benchmark?

VIII. Support for Low Income Consumers

A. ISSUE: Define a process to address any waiver requests of carriers to the no-disconnect rule.

PROPOSAL FOR COMMENT: The no-disconnect rule would prohibit disconnection of local service for Lifeline customers for non payment of toll charges. Despite the benefits of a no-disconnect rule for Lifeline consumers, the FCC recognized that state utility regulators would have the ability to grant carriers a limited waiver of the requirement under limited special circumstances. The FCC is raising Lifeline support from \$3.50 to \$5.25. The FCC will match 1/2 of state support up to an additional \$1.75 which will provide for a maximum of \$7.00 federal support.

B. ISSUE: Determine if the current level of state discounts for Lifeline should be changed.

PROPOSAL REQUESTED: Currently, Tennessee provides \$3.50 per month support for Lifeline. At the state's current level of funding (\$3.50/month) the FCC will provide an additional \$7.00 in federal support for a total of \$10.50 in support. If this level of support is retained, then procedures may be considered to prevent Lifeline customers from receiving 100% free service. For instances, should a minimum amount be charged to the Lifeline customer? Please comment.

Tennessee has the option of reducing its monthly support amount, which in turn would reduce the federal funding. Any reduction in Tennessee's current funding of \$3.50 will result in a Federal reduction of one half of the amount of the Tennessee reduction, down to the minimum Federal funding amount of \$5.25. For example, Tennessee funds \$1.00, Federal minimum funding \$5.25. Federal matching of 1/2 of state is \$.50. This would provide total support of \$6.75. Please comment.

C. ISSUE: Develop funding mechanisms.

PROPOSAL REQUESTED: The Authority requests comments from the potential participants on how funding for this support can be accomplished.

X. Schools and Libraries

A. ISSUE: Determine if additional intrastate support for eligible schools and libraries is needed.

PROPOSAL REQUESTED: During the July 15, 1997, Authority agenda, the Directors adopted the FCC matrix for federal funding to schools and libraries. In addition to this federal discount, the state currently has ISDN, School Parent Telecommunications Service, in Classroom Computer Access Service and Distance Learning Video Transport Service discounts available to schools and libraries.

1. Do any potential participants believe that more discounts to schools and libraries should be offered in addition to the federal discount matrix and the four state discounted services?

2. Should additional discounts to Internet services be provided by the state?

B. ISSUE: Develop funding mechanisms if needed.

PROPOSAL REQUESTED: Cost studies need to be submitted on the current state discounted services to determine if, in fact, schools and libraries are receiving a subsidy. Additionally, any other state discounted services will need studies to determine subsidies. Once the subsidy amounts are known a fund must be established to support the discounts. The Authority requests comments from the potential participants on how funding for this support can be accomplished. Please be specific and provide your view on whether support for schools and libraries should come from the same source of revenues used to support other Universal Service items.

C. ISSUE: Address as necessary any school and library petitions regarding pre-discount price.

PROPOSAL REQUESTED: The FCC noted that if schools and libraries believe the lowest corresponding price offered to them is unfairly high or low, they may seek recourse from the state. What procedures do you believe could be put in place to ensure that schools and libraries are offered the lowest possible price. Also, if a school or library petitions the Authority regarding the price, what criteria should be used to determine if in fact the price is unreasonably high?

XII. Support For Health Care Providers

A. ISSUE: Determine if additional intrastate support for eligible health care providers is needed.

PROPOSAL REQUESTED: The Authority requests comments from the potential participants on whether additional health care discounts are needed.

B. ISSUE: Develop needed funding mechanisms.

PROPOSAL REQUESTED: The Authority requests comments from the potential participants on how funding for this support can be accomplished.

XIII. Administration of Support Mechanisms

A. ISSUE: Determine which companies qualify as non-rural carriers and are subject to 1/1/99 Universal Service support

PROPOSAL FOR COMMENT: BellSouth and United Telephone Southeast are the only companies which the Staff has identified as non-rural carriers. Are there others?

B. ISSUE: Determine method for transition from current support to new support.

PROPOSAL REQUESTED: The new support mechanisms approved will be the determining factor of the impact on transition from old support to the new system. Since the fund administrator is responsible for maintaining the new fund, it may be appropriate to allow the administrator to design a system for the transition. Please provide your opinion on a transition process.

C. ISSUE: Determine the structure of the intrastate Universal Service fund.

1. How will it be created?
2. Will it be consistent with or not consistent with the Federal fund?
3. Who will contribute to it?
4. How often will contributions be made?
5. What basis should be used for contributions?
6. Who is eligible to receive support?
7. How funds will be distributed?
8. How should the Authority ensure that the fund is non-discriminatory and competitively neutral?

PROPOSAL REQUESTED: The Authority requests comments from the potential participants on these specific issues regarding the structure of the intrastate Universal Service Fund.

D. ISSUE: Determine notification requirements regarding companies' certification of rural carrier status.

PROPOSAL REQUESTED: A carrier must notify the FCC and its state Commission, that for purposes of Universal Service support determinations, it meets the definition of a rural carrier. Carriers should make such a notification each year prior to the beginning of the Universal Service Fund payout period for that year. What procedures can be put in place to ensure that rural carriers satisfy this requirement?

E. ISSUE: Determine need for public interest payphones and develop funding mechanisms, if required.

PROPOSAL REQUESTED: Please provide comments on what criteria you believe is necessary for determining the need for a public interest payphone. Funding for public interest payphones may come from various sources such as the Universal Service Fund or an additive or charge on payphone access lines. What type of funding mechanisms do you believe would be appropriate for funding of public interest payphones?

F. ISSUE: Determine if the Authority should administer the intrastate Universal Service Fund.

PROPOSAL REQUESTED: Please provide comments.

G. ISSUE: Appoint intrastate Universal Service Fund Administrator.

PROPOSAL REQUESTED: What criteria should be established to determine qualifications as fund administrator?

H. ISSUE: Determine if contributions to the Universal Service fund may be recovered by contributors, (i.e. passed on to end users).

PROPOSAL REQUESTED: The FCC adopted a contribution assessment methodology that is competitive neutral and easy to administer. Contributions will be assessed against end users telecommunication revenues, revenues derived from end users for telecommunications, and telecommunications services, including SLCs. Please provide comments.

XIV. Other

A. ISSUE: Would the use of task forces, advisory committees, technical conferences and settlement conferences in this proceeding be helpful?

PROPOSAL REQUESTED: Some potential participants have commented that these groups would be helpful. If you believe these groups would be beneficial, explain where these groups or meetings make sense.

B. ISSUE: Determine intrastate funding requirements for Tennessee Relay Center (TRC).

PROPOSAL REQUESTED: Currently, the intrastate costs of operating the TRC are divided between intraLATA and interLATA for the state. The intraLATA portion is funded by all LECs based on their proportionate share of intraLATA minutes of use and the interLATA portion is funded by all interexchange carriers based on their proportionate share of interLATA minutes of use. Options for funding the TRC could include the current system, through the Universal Service Fund, or establishment of a separate fund. Which option do you believe would be best? The current fund is administered by BellSouth. Do you believe BellSouth should continue as administrator of the fund?

C. ISSUE: Determine effect of BST stay on Universal Service.

PROPOSAL REQUESTED: If the court remands the case back to the Authority, then the price regulation audit will have to be re-done to conform with the courts ruling, which in turn would effect implicit subsidy calculations. If the court supports the Authority's decision, then revenues of certain services will be lowered, thus reducing any implicit subsidies that may exist. Please provide your comments.

D. ISSUE: Determine any needed changes to Authority rules, state laws, etc.

PROPOSAL REQUESTED: Provide any necessary changes to Authority rules and/or State Laws to make them conform with the Federal Law.

E. ISSUE: Determine date that Universal Service will be re-addressed.

PROPOSAL FOR COMMENT: The FCC is convening a Federal-State Joint Board to review the definition of Universal Service on or before January 1, 2001. The Staff would recommend that an intrastate Universal Service proceeding be held immediately following the Joint Board's decision. Please provide your comments.

F. ISSUE: Determine and implement service quality standards.

PROPOSAL REQUESTED: The FCC determined that states may impose service quality standards that are competitively neutral and further the goals of Universal Service.

Consistent with these requirements, what service quality standards do you feel are necessary?

G. ISSUE: Are embedded cost studies appropriate to determine implicit subsidies?

PROPOSAL FOR COMMENT: Implicit subsidies are the support that currently exists for Universal Service elements. This current support is determined based on embedded costs, therefore, the Staff believes embedded costs are appropriate to determine implicit subsidies. Do you agree?

H. ISSUE: Determine method to calculate implicit subsidies (i.e. by element, group or category).

PROPOSAL FOR COMMENT: The Staff believes that implicit subsidies should be calculated in the most efficient and least burdensome manner. To facilitate this, the Staff prefers that implicit subsidies be calculated by service groups or categories. Please provide your comments.

I. ISSUE: Determine effect of contracts between LECs (i.e. EAS, toll, private line, etc.) on subsidies.

PROPOSED SCHEDULE FOR UNIVERSAL SERVICE

PHASE 1 - Non Specific Cost Issues

Docket No. 97-00888

July 28, 1997	Pre-hearing Conference. Distribute Issues for Comments and Proposed Schedule
August 1, 1997	Parties file comments regarding the choice of Cost Model
August 5, 1997	Status conference with Staff and Participants - 1:30 p.m. Questions regarding Request for Comments
August 5, 1997	TRA Conference - Directors vote on what cost model to use for Universal Service and inform the FCC by August 15, 1997
August 21, 1997	Comments due on Request for Comments
September 2, 1997	Reply comments due in response to comments filed
September 10, 1997	Status / Settlement Conference
September 16, 1997	Conference Agenda - Directors rule on the issues to be heard at hearing.
September 26, 1997	Pre-hearing if needed - tentative
October 17, 1997	Direct testimony for litigated issues
October 24, 1997	Rebuttal testimony
November 17-21, 1997	Hearing on contested issues
December 16, 1997	TRA decision on Phase 1 issues

PROPOSED SCHEDULE FOR UNIVERSAL SERVICE

PHASE 2

Docket No. 97-00888

January 13, 1998	Pre-hearing Conference Cost Methodology & Issues Defined Schedule to completion established
February 12, 1998	Telcos provide cost and revenue data by category
February 23, 1998	Discovery request due
March 20, 1998	Discovery request due
April 3, 1998	Direct testimony due
April 13, 1998	Rebuttal testimony due
April 27-May 1, 1998	Hearings
May 19, 1998	TRA decisions on remaining Universal Service issues

Attachment B

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September 16, 1997

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Re: Universal Service Generic Contested Case
Docket No: 97-00888

Dear Lawyers:

On the theory that it would greatly expedite the pre-hearing conference if the parties, or at least those who are most heavily involved, could agree on a list of issues, and the further theory that AT&T and BellSouth historically have had the greatest difficulty in reaching agreement, Guy Hicks and Bennett Ross for BellSouth and Jim Lamoureux and I for AT&T have been discussing reaching agreement on an issues list for this case.

Guy and Bennett took AT&T's list from the comments we submitted on August 21, 1997, reworked that list and resubmitted it to us. AT&T has reviewed the list as they submitted it,

September 16, 1997

Page 2

raised some questions which have been resolved, and can now state that AT&T and BellSouth have agreed on the issues list, a copy of which is enclosed.

BellSouth suggested adding two further issues, as preliminary or threshold matters:

First, there should be a designation of ILECs as eligible telecommunications providers, so that they will continue to receive USF funding from NECA on January 1, 1998. As you know, the FCC requires that all such carriers obtain state certification and submit it to NECA to receive funding. BellSouth recommends that the TRA direct all ILECs to file requests for certification by a certain date (e.g., October 15, 1997). The TRA could then rule on all such requests for certification at one time, preferably no later than December 1, 1997 in order that the ILECs can provide timely certification to NECA.

Second, in order for Tennessee Lifeline consumers to benefit from the increase in federal Lifeline support, the TRA should approve a monthly reduction of \$1.75 to basic local exchange rates for Lifeline customers.

AT&T agrees that those issues should be added as preliminary issues.

Guy and I are submitting this list, with the two additions to you for your consideration. We will welcome any comments, questions, or suggestions you may have. We hope that you will be able to agree substantially, if not wholly, with this list; and, if not, that we can identify any points of disagreement that might need to be resolved by the Hearing Officer.

Once we have your reaction, we can submit the list to the entire group of lawyers.

You will note that we have not attempted to propose a specific schedule. We thought that first we should get the issues identified and then see if we can, with the TRA staff and the Hearing Officer, work out such a schedule.

Of course, we recognize that the Hearing Officer has to pass on this; and that she will want input from the TRA staff. We trust, however, that this process will make her task, and that of the staff, easier.

September 16, 1997
Page 3

Thank you for your cooperation.

Yours very truly,

A handwritten signature in black ink, appearing to read "Val Sanford", written over a horizontal line.

Val Sanford
Attorney for AT&T Communications of the
South Central States, Inc.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", written over a horizontal line.

Guy M. Hicks
Attorney for BellSouth Telecommunications, Inc.

VS:GMH/ghc

cc: Dennis McNamee

ISSUES

EXCEPT AS NOTED IN (i) AND (ii), THESE ISSUES CAN BE ADDRESSED IN PHASE II.

1. Definition of Universal Service, i.e., what services are to be supported by a Tennessee universal service support system?

(a) Issues of law or a policy

(i) Must, or should, a Tennessee system be limited to "basic residential local exchange telephone service", or must any Tennessee system be based on the federal definitions of "universal service", "telecommunications carrier" and "intrastate telecommunications service"?¹ PRELIMINARY

(ii) Assuming that a Tennessee system is not limited to "basic residential local exchange telephone service", should the TRA include for support under a Tennessee system, services in addition to those designated by the FCC; and, if so, what services? PRELIMINARY

(iii) Must, or should, the TRA adopt specific procedures for passing upon "exceptional circumstances" petitions as contemplated by paragraphs 89 - 92 of the FCC Order; and, if so, what should they be?

(iv) Must, or should, the TRA adopt quality of service standards and procedures and collect quality of service data (see paragraphs 100-101); and, if so, what should they be?

(b) Other issues

(i) Are there any telecommunications carriers/providers that will not be able to offer all the elements of universal service, as federally defined, by the end of 1998 (e.g., toll blocking); and, if so, what is the nature of the problem?

(ii) Should the TRA recommend to the General Assembly the revision of §§65-5-207, or other statutes concerning universal service; and, if so, should the parties participate in arriving at such recommendation?

¹ "Must" indicates a question of law, "should" indicates a question of policy.

EXCEPT AS NOTED IN b (iii), PHASE II

2. What carriers/providers are eligible to receive support?

(a) Issues of law or policy

(i) What procedures should be followed in the designation of "service areas" pursuant to §214(e)(5), both rural and nonrural?

(ii) What procedures should be followed in the designation of eligible telecommunications carriers pursuant to §214(e)(2), including which carriers qualify as nonrural carriers and are subject to January 1, 1999 federal U.S. support?

(iii) For the purpose of a Tennessee system, must or should, the same "service areas" and "eligible telecommunications carriers" be designated; and if not, what alternative should be followed?

(iv) Must or should telecommunications carriers not under the TRA state law jurisdiction (e.g., cooperatives) be included as potentially "eligible telecommunications carriers" for the purpose of a Tennessee system; and, if so, what telecommunications carriers are to be included?

(v) Should the TRA adopt advertising guidelines as suggested in § 148 of the FCC order for the purposes of the federal system? If so, how should such guidelines be established?

(vi) Should the TRA adopt advertising requirements and guidelines for any state mechanism?

(vii) Should the TRA adopt "facilities requirements" for a state system analogous to those adopted by the federal system by §214(e)(1) as implemented by the FCC in §§ 150-180?

(viii) What, if any, particular action should the TRA take to monitor the provision of supported service "to ensure that universal service support is used as intended until competition develops", see §181?

(ix) Given the provisions of §214(e) is the concept of "carrier of last resort" still relevant; and, if so, on what basis should such carriers be designated?

(x) Given the provisions of §214(e) and T.C.A. §§65-4-114(b) and 65-4-113, should the TRA adopt any further standards or mechanisms with respect to a carrier's withdrawing service?

(xi) Must a telecommunications carrier participate fully as a party in this proceeding to be designated as eligible?

(b) Other Issues

(i) Whether there are any unserved areas in Tennessee within the meaning of §214(e)(3)?

(ii) The TRA must designate "service areas" pursuant to §214(e)(5). Service areas for rural telephone companies should be designated as provided in FCC Rule §54.207. For nonrural telephone companies, should the TRA require such companies to file a proposed service area designation consistent with the principles set forth by the joint board and the FCC and should the parties be allowed to comment?

(iii) Once the designation of service areas and eligible telecommunications carriers is completed, should proceedings with respect to rural and nonrural carriers then be bifurcated? PRELIMINARY*

(vi) What procedure should be put in place to ensure that rural carriers satisfy the notification of status requirements?

* THIS CAN BE DONE PRIOR TO GOING THROUGH DETAILED SERVICE AREA ANALYSES.

PHASE II

3. What carriers/providers must provide support under a Tennessee system?

(a) Issues of law or policy

(i) Does §254(f) require the TRA to adopt and implement the federal definitions of "telecommunications carrier", "intrastate telecommunications service" in any state universal service support system? If so, must all telecommunications carriers who provide Tennessee intrastate telecommunications services be required by the TRA to contribute to any Tennessee universal service support mechanism? If not, may, or should, all such carriers be required to contribute?

(ii) Despite the language of §254(f), do the limitations on the TRA's jurisdiction under Tennessee law preclude it from bringing telecommunications service providers who are not within its regulatory jurisdiction within the scope of the requirements to provide support to a Tennessee system?

(iii) The TRA should provide notice to all carriers/providers that their rights may be determined or affected in this proceeding.

EXCEPT AS NOTED, THESE ISSUES CAN BE ADDRESSED IN PHASE II

4. What should be the basis for determining support, including the requirements that rates be affordable and that any subsidy be explicit?

(a) Issues of law or policy

(i) In developing a Tennessee universal service support system, must or should the TRA follow the federal standards of affordability as set forth by the FCC (§§ 108-126)?

(ii) If so, what procedures should the TRA follow in this proceeding to apply the factors stated by the FCC to Tennessee intrastate rates for the services designated by the FCC to be supported under a Tennessee universal service support mechanism?

(iii) What data will have to be collected in order to implement a Tennessee mechanism pursuant to the concepts in the FCC order and how should that data be collected?

(iv) Provided that existing rates are set to be just and reasonable pursuant to T.C.A. §65-5-201 and "affordable" pursuant to T.C.A. §65-5-209, is there an assumption that current rates are "affordable" for universal service purposes?

(v) What should be the territorial scope of universal service rates, e.g., statewide by carrier, by "service area", or by category of support?

(vi) What definition of explicit subsidy should be used by the TRA for any Tennessee system? PRELIMINARY* IF DETERMINING SIZE/CALCULATION OF FUNDING; PHASE II IF DETERMINING HOW TO RECOUP

(vii) What procedure should the TRA follow in this proceeding in identifying and determining the amount and sources of existing implicit support for "universal service" as that term is defined in the Federal Act and implemented in the FCC's order? PRELIMINARY

**** NOTE** (viii) What procedure should the TRA follow in this proceeding in determining the amount and sources of explicit, specific, predictable, sufficient support for "universal service" as that term is defined in the Federal Act and implemented in the FCC's order?

(ix) Is there a conflict between the federal statutes' provision that support "should" be explicit and the Tennessee requirements in T.C.A. §65-5-207(c)(1) and (3); and, if so, which must be followed in this proceeding for a Tennessee system?

(xi) Should the TRA adopt procedures, including requiring reports or other data collection to monitor subscribership levels, or other aspects of the effectiveness of any Tennessee universal service support mechanism in order to maintain affordable rates and only explicit, specific, predictable support?

(xii) Should a special procedure be established for hearing complaints as to the affordability of rates?

(xiii) Should periodic reports be required from carriers/providers of local service to collect information as to affordability on a current basis?

**** (VIII) PROCEDURES TO DEVELOP THE AMOUNT ARE PART OF THE COST PHASE. SOURCES AND ADDRESSING THOSE SOURCES CAN BE PART OF PHASE II.**

PHASE I

5. How should the TRA determine the basis for "high cost" support?

(a) Issues of law or policy

(i) Must, or should, the determination as to "high cost" support be made as an "alternative" support mechanism in accordance with T.C.A. §65-5-207(c)?

(ii) Must, or should, the TRA in this proceeding identify "implicit intrastate universal service support" for high cost areas (see §202)?

(iii) What should be the core elements of the Tennessee cost study (i.e., residential, business, usage)?

(iv) What areas should be included in each cost study?

(v) Is it appropriate to require deaveraging to the wire center serving area, at least, and to smaller areas, if feasible?

(vi) What elements should be included in the revenue benchmark for a Tennessee system?

(vii) What cost model or methodology should be adopted?

(viii) How should that costs model or methodology be applied?

(ix) How should the cost be related to the benchmark, and rates be determined?

PHASE II*

6. How should the TRA determine the basis for support for "low income consumers?"

(a) Issues of law or policy

(i) Should the TRA in this proceeding state specifically the existing Lifeline and Linkup Tennessee programs?

(ii) Must, or should, the TRA in this proceeding revise the existing Lifeline and Linkup programs?

(iii) What standards and procedures should be adopted to address any waiver requirements of carriers to the no-disconnect rule?

(iv) Should the current level of discounts in Tennessee be changed; and, if so, to what level?

(v) What funding mechanism should be developed for support of Lifeline and Linkup for a Tennessee system?

*** THERE IS A REQUIREMENT FOR ALL ELIGIBLE CARRIERS TO OFFER THESE PROGRAMS 1/1/98. HOWEVER, A COMPETITIVELY NEUTRAL MECHANISM TO SUPPORT THESE PROGRAMS DOES NOT HAVE TO BE IN PLACE AT THAT TIME. THEREFORE, THE TRA CAN CONTINUE TO SUPPORT THESE PROGRAMS AS THEY ARE NOW DOING UNTIL PHASE II.**

PHASE II *

7. What support should be provided schools and libraries?

(a) Issues of law or policy

(i) Should the TRA in this proceeding specifically state the discounts for schools and libraries currently available in Tennessee?

(ii) Should the TRA make any revisions in the current system of discounts in Tennessee?

(iii) Should any additional discounts be authorized in this proceeding?

(iv) What procedures, standards or criteria should be adopted to handle complaints with respect to such discounts?

(v) What cost studies should be undertaken, and by whom, to determine if any such discounts are receiving, or require, a subsidy?

(vi) If a subsidy is required, what funding mechanism should be adopted for the support of such programs?

*** AS LONG AS THE TRA HAS ADOPTED THE FEDERAL MATRIX, NO ADDITIONAL ISSUES NEED TO BE IMMEDIATELY ADDRESSED.**

PHASE II*

8. What support should be provided for health care providers?

(a) Issues of law or policy

(i) Should the TRA in this proceeding adopt a mechanism for support for health care providers in addition to that provided under federal law?

(ii) If such additional support is to be provided, who should be eligible to receive it, under what criteria?

(iii) If such additional support is to be provided, what should be the level of support and by what means should it be provided?

*** NO ACTION IS REQUIRED OF THE TRA AT THIS TIME. THE FCC'S PROGRAM DOES NOT REQUIRE PRO-ACTIVE RESPONSE OF THE TRA IN ORDER FOR TN HEALTH CARE PROVIDERS TO PARTICIPATE.**

PHASE II

9. What should be the sources, and the level or amount of, support in a Tennessee universal service support system?

(a) Issues of law or policy

(i) Are the limitations imposed in T.C.A §65-5-207(c)(1) and (3) consistent with the federal concept of "sufficient" as expressed in §254(b)(5) and (f); and, if not, which should govern in a Tennessee system?

(ii) Must, of should, the TRA for any Tennessee system follow the FCC's "end-user telecommunications revenues" approach for the calculation of contributions to universal service (§854)?

(iii) What should be the explicit, predictable and specific sources for the support of "affordable rates" generally, for the support of rural and high cost areas, and for the support of low income consumers (Lifeline and Linkup); and what procedure should be followed by the TRA in making those determinations?²

(iv) In establishing a Tennessee system, should the TRA establish cost allocation rules, accounting safeguards, or other guidelines: (1) to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common cost of facilities used to provide those services; and (2) protect against the unwarranted subsidization of services or providers; and what procedures should the TRA adopt in order to make those determinations, if any?

(v) If the TRA does not follow the FCC's "end-user telecommunications revenues" approach for the calculation of contributions, what method of calculations should be required?

² This question overlaps with the question concerning funding mechanisms in issues 6, 7, and 8.

PHASE II

10. What steps should the TRA to ensure that a Tennessee system is nondiscriminatory and competitively neutral?

(a) Issues of law or policy

(i) Should the TRA develop specific guidelines or criteria as to the requirements that any system be nondiscriminatory and competitively neutral, and, if so, what should they be?

(ii) Should the TRA expressly review each aspect of the Tennessee system as specific decisions are made to assure that those decisions comply with the standards of nondiscriminatory and competitively neutral?

(iii) Should the TRA adopt specific procedures for handling complaints with respect to charges of violating these policies?

PHASE II

11. How may universal service support contributions be recovered by the carriers/providers making them?

(a) Issues of law or policy

(i) Should carriers contributing to the state universal service fund be permitted to recover their contributions, and if so, how should these contributions be recovered?

(ii) Given the varying forms of regulation to which the carriers/providers which will be making contributions to a Tennessee system are subject, should the TRA attempt to develop any general rules, criteria, or guidelines in this regard in this proceeding; or should the TRA leave such determinations to subsequent proceedings involving particular carriers or categories of carriers?

PHASE II

12. How should the transition from the existing implicit system in Tennessee to a new explicit system be accomplished, including any adjustments in the rates of carriers affected by the transition?

(a) Issues of law or policy

(i) Given the fact that the carriers/providers which will be affected by the transition are subject to differing regulatory systems and have differing rates, should the TRA commence separate proceedings to determine the means of transition and any adjustments for the effect thereof for each such provider or each category of providers?

(ii) Given the fact that any transition will also affect the providers which have been making contributions to the existing system, what general standards or criteria should govern the consequences of that effect, and what procedure should be followed in accomplishing the transition as to such providers?

(iii) Since the same providers may be making both contributions and receiving support, should a system of off-sets be provided?

(iv) What reports should be required, and other data collected, by the TRA or the administrator, with respect to the transition?

(v) What, if any, additional cost studies should be required, on what basis, and by whom should they be made?

(vi) What standards or criteria should govern the transition?

PHASE II

13. How, and by whom, should a Tennessee universal service support system be administered?

(a) Issues of law or policy

(i) Does the TRA have the power to delegate the administration of a Tennessee system to a neutral third-party administrator? If so, should it do so, and if it does, how will that administrator be chosen and what duties will be assigned to it?

(ii) The Tennessee statute contemplates that contributions will fund administration of the mechanism. Must, or should, the TRA in this proceeding determine the personnel, equipment and facilities needed for the administration of the system and estimate the cost of funding administration, with such costs to be included in the contributions to the system?

(iii) May, must, or should the TRA create a separate division or other office within the TRA for the administration of the Tennessee mechanism?

(iv) What duties, if any, should be specifically assigned to any administrator of the system and what duties should be retained by the directors of the TRA?

(v) Should the TRA hire an outside consultant, designate a staff/industry task force, or an advisory committee to assist in these issues of organizing the administration of a Tennessee mechanism?

(vi) If the decision is to use a third-party neutral administrator and it is determined that legislative authorization is required to do so, how should such authorization be obtained.

PHASE II

14. What action needs to be taken to bring all decisions within a coherent, comprehensive, coordinated plan?

(a) Issues of law or policy

(i) What criteria should be established for determining the need for public interest payphones?

(ii) If public interest payphones are established, how should they be funded?

(iii) How should the Tennessee intrastate funding of the Tennessee Relay Center be determined and administered?

(iv) When should universal service be re-addressed, and should that be included in any order entered in this proceeding?

(v) What is the effect of contracts between LECs? (EAS, toll, private line, etc.) on implicit subsidies?

(b) Issues of fact or policy

(i) Pursuant to T.C.A. § 65-5-207(b), what cost methodology should be used to determine implicit subsidies?

(ii) Pursuant to T.C.A. § 65-5-207(b), what implicit subsidies now exist, and in what amounts?